

EPA'S ROLE IN APPROVING BASIN PLAN AMENDMENTS

WHICH BPAs REQUIRE EPA REVIEW?

- NEW OR REVISED WATER QUALITY STANDARDS
- TOTAL MAXIMUM DAILY LOADS (TMDLs)

NEW OR REVISED WATER QUALITY STANDARDS

- 💧 BENEFICIAL USES
- 💧 WATER QUALITY OBJECTIVES
- 💧 ANTIDegradation
- 💧 POLICIES GENERALLY AFFECTING IMPLEMENTATION OF WQS, E.G.
 - 💧 Mixing Zones
 - 💧 Low Flows
 - 💧 Variances
 - 💧 Compliance Schedules

TMDLs

$$\text{TMDL} = \Sigma \text{WLAs} + \Sigma \text{LAs} + \text{NB}$$

WLA = portion of receiving water's loading capacity allocated to a point source

LA = portion of receiving water's loading capacity attributed to a nonpoint source

NB = Natural background

SOURCE OF EPA'S AUTHORITY TO REVIEW

CLEAN WATER ACT

§303(c) for WQS

[40 CFR 131]

§303(d) for TMDLs

[40 CFR 130.2 and 130.7]

WQS REGULATIONS

40 CFR 131

§ 131.1 – Scope

§ 131.2 – Purpose

§ 131.3 – Definitions

§ 131.4 – State Authority

§ 131.5 – EPA Authority

§ 131.6 – Minimum requirements for
WQS submission

WQS Regs: 40 CFR 131 (cont.)

- § 131.10 – Designation of Uses
- § 131.11 – Criteria
- § 131.12 – Antidegradation policy
- § 131.13 – General Policies
- § 131.20 – State review and revision
- § 131.21 – EPA review and approval
- § 131.22 – EPA promulgation of WQS
- § 131.38 – CA Toxics Rule

TDML Regulations

40 CFR 130.2: Definitions

40 CFR 130.7: TMDLs

130.7(c) - Development of TMDLs
and individual water quality based
effluent limitations

130.7(d) - Submission and EPA
approval

WHAT DECISIONS CAN EPA MAKE?

👍 **APPROVE**

👎 **DISAPPROVE**

EPA'S REVIEW PROCESS

➤ Receive State's submission

If complete, date received starts the clock

- WQS

- 60 days to approve
- 90 days to disapprove

- TMDL

- 30 days to approve or disapprove

EPA REVIEW PROCESS (cont.)

- FOR WQS: Review submission for completeness and consistency with 40 CFR 131.5 and 131.6
 - Use designations consistent with CWA §§ 101(a)(2) and 303(c)(2)?
 - Sufficient scientific/technical basis for omitting any 101(a)(2) uses?
 - Criteria sufficient to protect uses?
 - Supporting methods and analyses?
 - Antideg policy?
 - OAL certification?
 - Sufficient info re: general policies?

EPA REVIEW PROCESS (cont.)

- FOR TMDLs: Review submission for completeness and consistency with 40 CFR 130.2 and 130.7
 - Sufficient to attain/maintain WQS?
 - **Separate TMDLs, WLAs for point sources, and LAs for nonpoint sources and background?**
 - Accounts for seasonal variation?
 - **Margin of safety?**
 - Accounts for critical conditions for stream flow, loading, and water quality parameters?

EPA REVIEW PROCESS (cont.)

➤ Complete ESA consultation (WQS)

- Endangered Species Act §7: federal actions shall not jeopardize threatened or endangered species
- If cannot complete within 60 days of submittal, may act "subject to the results of consultation"

EPA'S REVIEW PROCESS (cont.)

➤ Approve or disapprove

- Region has authority to approve WQS
- WQS disapproval requires HQ concurrence
- Region has authority to approve or disapprove TMDLs

EPA REVIEW PROCESS (cont.)

- Approved WQS are posted in the National Database of WQS on EPA's website:

<http://www.epa.gov/waterscience/standards/wqslibrary>

- Approved TMDLs are posted on state websites (EPA does not publish)

TIPS FOR IMPROVING THE LIKELIHOOD OF EPA APPROVAL

- 👍 Get to know your EPA liaisons
- 👍 Coordinate early and often
- 👍 Ensure T&E species are protected
- 👍 Respond to EPA comments

TIPS FOR IMPROVING THE LIKELIHOOD OF EPA APPROVAL

- 👍 Make sure conclusions are supported by data
- 👍 Clearly identify geographical scope, pollutants and waters covered
- 👍 Include and identify all required elements in submission